IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

MFA.No. 83 of 2000(B)

OPSUC.9/1995 of ADDL.SUB COURT, IRINJALAKUDA
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APPELLANT: IST RESPONDENT

DEVAKIAMMA, W/O. VELAKATHARAVEETTIL APPU NAIR,
PARIYARAM P.O., VIA CHALAKUDY, TRICHUR DIST.

BY ADV. SRI.K.G.BALASUBRAMANIAN

RESPONDENTS: PETITIONER AND RESPONDENTS 2 TO 5
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1. **REMADEVI, D/O. MOOTHEDATH DEVAKIAMMA,**
   KULAYIDOM DESOM, KALLUR
   VEDAKUMURRY VILLAGE, MUKUNDAPURAM TALUK.

2. **BABY, W/O. VELAKATHARAVEETTIL CHANDRASEKHARAN,**
   PARIYARAM P.O., VIA,
   CHALAKUDY, TRICHUR DIST.

3. **SATHI, D/O. VELAKATHARAVEETTIL DEVAKIAMMA -DO- -DO-**

4. **MOHANAN, S/O. D/O. DEVAKIAMMA -DO- -DO-**

5. **SASI, S/O. D/O. DEVAKIAMMA RESIDING AT**
   ALAVI CENTER, POTTA CHALAKUDY.

BY ADV. SRI.RENJITH THAMPAN

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & V.GIRI, JJ.

M.F.A.No.83 of 2000

Dated this the 10th day of August, 2007.

JUDGMENT

Koshy, J.

This appeal is filed against the order of the court below in O.P.No.9/95 on the file of the Subordinate Judge, Irinjalakuda granting a succession certificate in favour of the first respondent herein.

2. In the above petition, a prayer was made by the first respondent for issuance of a succession certificate in respect of provident fund due of Rs.50,000/- and Rs.15,000/- as provident fund linked insurance, claiming that she is the legatee of the deceased Appu Nair. The appellant herein, though cross-examined the respondent, it seems that no objections were filed by her and finally remained ex parte.

3. It is submitted that the application was not filed for probating the Will, but for issuance of the succession certificate with regard to the Provident Fund and linked insurance and therefore, the appellant did not contest the petition on that point. The order was passed in 1998. Even

though the appeal was filed as early as in 2000, it is coming up for admission only in 2007. After hearing the counsel for the appellant, we feel that, by this time, the judgment would have been implemented. Therefore, there is no reason for any interference. However, we make it clear that since the application was not for a declaration of the Will as valid and for probating the Will, the findings made in the order regarding the Will is not binding in any subsequent proceedings, but only for the purpose of payment of provident fund and linked insurance.

With the above observation, the appeal is disposed of.

Sd/-

(J.B.KOSHY)

JUDGE

Sd/-

(V.GIRI)

JUDGE

sk/

//true copy//

J.B.KOSHY & V.GIRI, JJ.

M.F.A.No.83 of 2000

JUDGMENT

10TH AUGUST, 2007.